

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO.

**WALTER STICKLE, ANTHONY
CALIENDO, JOHN PITINGOLO and
DANIEL FISHER,
Plaintiffs**

v.

**ARTHUR ORFANOS,
Defendant**

04 11539 JLT

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Now come the plaintiffs, Tony Caliendo, John Pitingolo, Daniel Fisher, and Walter Stickle, by and through their counsel and hereby move that this Honorable Court issue an order for a preliminary injunction, enjoining the defendant from the following until such time as a permanent injunction issues:

- A. using the name "Pink Voyd," or any similar combination, in connection with the business of musical entertainment;
- B. operating a Web site at the domain names "www.pinkvoyd.us," "www.pinkvoyd.net," or any similar combination;
- C. registering, or attempting to register, any domain name which includes the words "Pink" and "Voyd" in any combination or with any other words, symbols or numbers;
- D. registering, or attempting to register, any domain name which appears similar to, or contains similarities to, "www.pinkvoyd.com";
- E. contacting the Chevalier Theatre in Medford, Massachusetts, its owners, operators or representatives, or the Town of Medford and any of its representatives, in any manner regarding the plaintiffs, Pink Voyd or the upcoming Pink Voyd concert of the plaintiffs on July 17, 2004;

- F. contacting Strawberries, its owners, operators and employees in any manner regarding the plaintiffs, Pink Voyd or ticket sales for any Pink Voyd concerts, including the upcoming Pink Voyd concert of the plaintiffs on July 17, 2004;
- G. contacting WZLX 100.7 FM, its owners, operators and employees in any manner regarding the plaintiffs, Pink Voyd or Pink Voyd concerts, including the upcoming Pink Voyd concert of the plaintiffs on July 17, 2004;
- H. contacting any future Pink Voyd performance venues, Pink Voyd performance vendors, Pink Voyd ticketing agents, Pink Voyd performance sponsors, and advertisers of Pink Voyd performances, or other people in the music industry, regarding the plaintiffs or Pink Voyd.

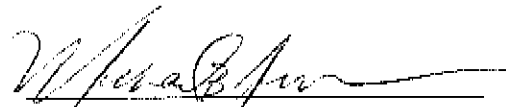
In support of this motion, the plaintiffs state that the defendant has violated the Lanham Act, the Massachusetts Trademark Protection Act, and M.G.L. c. 93A, and that the defendant's actions and unfair competition has caused and continues to cause disparagement of the plaintiffs' product, and tortious interference with the plaintiffs' business relationships. The defendant's violations are clear and, as such, there is a likelihood of success on the merits of the plaintiffs' action. The plaintiffs continue to suffer irreparable harm as a result of the defendant's wrongful actions. The balance of harms weighs heavily in the plaintiffs' favor, and the public interest will not be harmed by the granting of injunctive relief in this matter.

In further support of this motion, the plaintiffs rely upon, and incorporate by reference, the attached Memorandum of Law in Support of Plaintiffs' Motion for a Preliminary Injunction, and the accompanying affidavits of Tony Caliendo, John Pitingolo, Daniel Fisher, Walter Stickle, Eamon Tighe, Robert Caliendo, Major Steven F. Pitingolo, Paul Papetti, William Easton, Warren Scott, Joel A. Feingold, Kristen Piechocki, and Robert Palumbo.

WHEREFORE, for all of the foregoing reasons, and based upon the facts and the law, the plaintiffs respectfully request that their Motion for Preliminary Injunction be granted.

Respectfully submitted,

CLARK, HUNT & EMBRY



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